

FOURTH AMENDMENT TO

**AFFORDABLE HOUSING LOAN AGREEMENT
PACIFIC GARDENS ASSISTED LIVING COMMUNITY**

By and Between

**THE REDEVELOPMENT AGENCY OF
THE CITY OF SANTA CLARA, CALIFORNIA**

and

COMMUNITY HOME PARTNERS, LLC

THIS FOURTH AMENDMENT TO AFFORDABLE HOUSING LOAN AGREEMENT ("Fourth Amendment") is entered into by and between THE REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA, ("Agency"), and COMMUNITY HOME PARTNERS, LLC, a California limited liability company ("Developer"), as of the _____ day of _____, 2008. The Agency and the Developer covenant and agree as follows:

RECITALS

- A. Agency and Developer have entered into that certain Affordable Housing Loan Agreement executed on July 9, 2002 ("Original Loan Agreement"), as amended by that certain First Amendment to Affordable Housing Loan Agreement dated as of April 10, 2005 ("First Amendment"), as amended by that certain Second Amendment to Affordable Housing Loan Agreement dated as of March 21, 2006 ("Second Amendment"), and as amended by that certain Third Amendment to Affordable Housing Loan Agreement dated as of September 11, 2007 ("Third Amendment"). The Original Loan Agreement, the First Amendment, the Second Amendment, and the Third Amendment shall collectively be referred to herein as the "Loan Agreement", which is incorporated herein by this reference. Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the Loan Agreement. Loan Agreement as used herein shall include any and all attachments and exhibits thereto.
- B. Pursuant to the Loan Agreement, the Agency provided Developer the Agency Loan, comprised of four components: (1) \$3,027,319 (pursuant to the Original Loan Agreement) for land acquisition, predevelopment, construction and operating and working capital; (2) \$380,000 (pursuant to the First Amendment) to assist with operating and working capital expenses due to difficulty in leasing the beds for the memory support residents and in order to physically modify the Project to convert 8 units from memory support to assisted living; (3) \$630,000 (pursuant to the Second Amendment) to assist with operating and working capital expenses due to difficulty in leasing the beds for the memory support residents; and (4) \$280,000 (pursuant to the Third Amendment) to further assist with operating and working capital expenses due to continued difficulty in leasing the beds for the residents. The balance of funding for the Project was underwritten by a HUD Section 232 loan. The total Project costs were \$16,641,686.
- C. The Project was completed and resident occupancy started July 19, 2004. The Project currently consists of 80 units totaling 104 beds. The residents consist of assisted living residents and memory support residents. The lease up of units for the residents continues to not meet Developer's lease-up projections.
- D. Developer has requested an amendment to the repayment provisions of the Agency Loan

amount in order to further assist with operating and working capital expenses due to continued difficulty in leasing the beds for the residents.

- E. The Agency and Developer desire to enter into this Fourth Amendment in order to provide additional time to begin repayment of the Agency Loan, as more particularly set forth in this Fourth Amendment and subject to the terms and conditions hereof.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agency and Developer agree as follows:

1. Revisions to Loan Agreement.

a. Revised Terms of Agency Loan Repayment

- (1) Upon the Effective Date (defined below), Agency agrees to extend the time for any payments of principal or interest of the Agency Loan until July 9, 2010, with full repayment of outstanding principal balance and interest by July 9, 2044, as more particularly set forth in the Third Amended and Restated Promissory Note, substantially in the form attached hereto as Attachment No. 1.
- (2) Upon the Effective Date, the terms, including the terms of repayment, of the Agency Loan, are those set forth in the Third Amended and Restated Promissory Note, substantially in the form attached hereto as Attachment No. 1. Developer shall cooperate with the Agency and use its best efforts in working with HUD and Midland Loan Services, Inc. to ensure that the Agency Loan and the security provided by Developer therefor are protected to the greatest extent possible.

b. Conditions Precedent The "Effective Date" shall be the date on which all of the following conditions precedent have been satisfied:

- (1) Third Amended and Restated Promissory Note. The Developer shall have executed and delivered to the Agency the Third Amended and Restated Promissory Note in substantially the form attached hereto as Attachment No. 1. Upon the Effective Date, the Third Amended and Restated Promissory Note shall supersede the Second Amended and Restated Promissory Note in its entirety, the Second Amended and Restated Promissory Note shall be cancelled and returned to Developer, and all references in the Loan Agreement to Promissory Note shall mean and refer to the Third Amended

and Restated Promissory Note.

- (2) Third Amended and Restated Deed of Trust. Developer shall have executed, notarized and delivered to the Agency the Third Amended and Restated Deed of Trust in substantially the form attached hereto as Attachment No. 2. The Third Amended and Restated Deed of Trust shall have been recorded against the Property in second priority lien position following the HUD Loan deed of trust. Upon the Effective Date, the Third Amended and Restated Deed of Trust shall supersede the Second Amended and Restated Deed of Trust in its entirety, the Second Amended and Restated Deed of Trust shall be fully reconveyed, and all references in the Loan Agreement to Deed of Trust shall mean and refer to the Third Amended and Restated Deed of Trust.
- (3) Title Insurance. A title insurance company reasonably acceptable to the Agency Executive Director shall have issued to the Agency an ALTA lender's policy acceptable to the Agency Executive Director in the amount of the entire Agency Loan, Four Million Three Hundred Seventeen Thousand Three Hundred Nineteen Dollars (\$4,317,319), showing title to the Property as vested in the Developer, insuring the Third Amended and Restated Deed of Trust securing the Agency Loan as a second priority lien against the Property in accordance with the terms and conditions of this Fourth Amendment and the Loan Agreement. Developer shall pay all fees and costs associated with such lender's policy.
- (4) Escrow Fees. Developer shall have opened an escrow in connection with this Fourth Amendment (if and as requested by the Agency Executive Director or designee) and Developer shall have paid all escrow fees and costs associated with such escrow.
- (5) Compliance with Agreements. The Agency Executive Director or designee shall have determined that Developer is not in default under the Loan Agreement, the Environmental Indemnity, the Agreement Containing Covenants (including the First Amendment to the Agreement Containing Covenants, the Second Amendment to the Agreement Containing Covenants, and the Third Amendment to the Agreement Containing Covenants) or the HUD Loan Documents.
- (6) Compliance with Marketing Plan. The Agency Executive Director or designee shall have determined that Developer is in compliance with its marketing plan for the lease up of the resident beds and that Developer is

using its best, good faith efforts to lease up the remaining resident beds.

2. Performance Reporting. In addition to any reporting requirement set forth in the Third Amendment, Developer agrees that, until the Agency Loan has been repaid in full, the Developer will provide the Agency with a report on the occupancy of the building every quarter of the year. The report will be due by the 5th day of the month following the end of the quarter.
3. Further Revisions. Any provisions of the Loan Agreement which conflict with the intent of this Fourth Amendment shall be deemed revised in accordance with this Fourth Amendment. Nothing in this Fourth Amendment is intended to or limits in any way any general provision in the Loan Agreement which may pertain to Developer's obligations thereunder, such as, without limitation, Section 3.5 (Hazardous Substances), Section 3.6 (Fees and Taxes), Section 3.7 (Indemnification) and Section 3.9 (Prohibition Against Transfer).
4. Binding on Successors and Assigns. This Fourth Amendment shall be binding upon and inure to the benefit of the successors, assignees, personal representatives, heirs and legatees of the parties hereto.
5. Loan Agreement in Full Force and Effect. Except as otherwise modified herein, the terms and conditions of the Loan Agreement shall remain unmodified and in full force and effect. In the event of any conflict between the terms of this Fourth Amendment and the Loan Agreement, the terms of this Fourth Amendment shall control. Notwithstanding anything else contained in this Section 5 to the contrary, the terms and conditions of the HUD Secondary Rider ("Rider") (which is attached to this Fourth Amendment as a Rider to the Third Amended and Restated Promissory Note as Attachment No. 1 and attached hereto as Attachment No. 3 and incorporated herein by reference) shall supercede those of this Fourth Amendment and the Loan Agreement and should there be any conflict or inconsistency between the Rider and this Fourth Amendment and the Loan Agreement, the Rider shall prevail.
6. Further Assurances. The parties agree to execute such other documents and to take such other action as may be reasonably necessary to further the purposes of this Fourth Amendment.
7. Date of this Fourth Amendment. The date of this Fourth Amendment shall be the date this Fourth Amendment is executed by the Agency as set forth in the introductory paragraph above.

8. Counterparts. This Fourth Amendment may be executed by each party on a separate signature page, and when the executed signature pages are combined with the balance of this Fourth Amendment, it shall constitute one single instrument.

**THE REDEVELOPMENT AGENCY
OF THE CITY OF SANTA CLARA,
CALIFORNIA**

Date: _____

By: _____
Jennifer Sparacino
Executive Director

ATTEST:

By: _____
Rod Diridon, Jr.
Secretary

APPROVED AS TO FORM:
HELENE LEICHTER,
Agency General Counsel

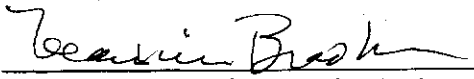
By: _____

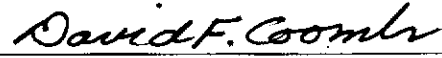
[remainder of page left intentionally blank]

[signatures continue on following pages]

COMMUNITY HOME PARTNERS, LLC, a California
limited liability company

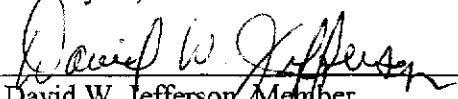
By: **COMMUNITY HOUSING ASSISTANCE
PARTNERS**, a California general partnership

By: 
General Partner: Community Assistance
Partners, Inc., Maxine Brookner, President

By: 
General Partner: DFC Associates, a
California corporation, David F.
Coombs, President

By: _____
Bruce Bastl, Member

By: _____
Al Brayton, Member

By: 
David W. Jefferson, Member

[remainder of page left intentionally blank]

[signatures continue on following page]

COMMUNITY HOME PARTNERS, LLC, a California
limited liability company

By: **COMMUNITY HOUSING ASSISTANCE
PARTNERS**, a California general partnership

By: _____
General Partner: Community Assistance
Partners, Inc., Maxine Brookner, President

By: _____
General Partner: DFC Associates, a
California corporation, David F.
Coombs, President

By:  _____
Bruce Bastl, Member

By: _____
Al Brayton, Member

By: _____
David W. Jefferson, Member

[remainder of page left intentionally blank]

[signatures continue on following page]

COMMUNITY HOME PARTNERS, LLC, a California
limited liability company

By: **COMMUNITY HOUSING ASSISTANCE
PARTNERS**, a California general partnership

By: _____
General Partner: Community Assistance
Partners, Inc., Maxine Brookner, President

By: _____
General Partner: DFC Associates, a
California corporation, David F.
Coombs, President

By: _____
Bruce Bastl, Member

By: 
Al Brayton, Member

By: _____
David W. Jefferson, Member

[remainder of page left intentionally blank]


[signatures continue on following page]

MORTGAGEE CONSENT

Midland Loan Services, Inc. hereby consents to this Fourth Amendment, the revision to repayment terms of the Agency Loan, Developer's entering into and executing the Third Amended and Restated Promissory Note, the Third Amended and Restated Deed of Trust, and the recordation against the Property of the Third Amended and Restated Deed of Trust.

MIDLAND LOAN SERVICES, INC., a Delaware corporation

Date: _____

By: 
Name: Dennis R. Siebers
Its: Vice President

Date: _____

By: _____
Name: _____
Its: _____

[remainder of page left intentionally blank]

[signatures continue on following pages]

HUD CONSENT

HUD hereby consents to this Fourth Amendment, the Developer's entering into and executing the Third Amended and Restated Promissory Note, the Third Amended and Restated Deed of Trust, and the recordation against the Property of the Third Amended and Restated Deed of Trust.

SECRETARY OF HOUSING AND URBAN
DEVELOPMENT, acting by and through the
Federal Housing Commissioner

Date: 8-26-08

By: 

Name: T. ATKINSON

Its: SAN FRANCISCO

MULTIFAMILY HUB DIR.

Date: _____

By: _____

Name: _____

Its: _____

[remainder of page left intentionally blank]

HUD CONSENT

HUD hereby consents to this Fourth Amendment, the Developer's entering into and executing the Third Amended and Restated Promissory Note, the Third Amended and Restated Deed of Trust, and the recordation against the Property of the Third Amended and Restated Deed of Trust.

**SECRETARY OF HOUSING AND URBAN
DEVELOPMENT, acting by and through the
Federal Housing Commissioner**

Date: _____

By: _____

Name: _____

Its: _____

Date: _____

By: _____

Name: _____

Its: _____

[remainder of page left intentionally blank]

ATTACHMENT NO. 1

FORM OF THIRD AMENDED AND RESTATED PROMISSORY NOTE

[behind this page]

**THIRD AMENDED AND RESTATED
PROMISSORY NOTE
TO THE REDEVELOPMENT AGENCY OF
THE CITY OF SANTA CLARA
Pacific Gardens Assisted Living Community**

4% Interest
Original Principal Amount Not to Exceed \$4,317,319

Santa Clara, California
_____, 2008

FOR VALUE RECEIVED, COMMUNITY HOME PARTNERS, LLC, a California limited liability company ("Developer"), hereby promises to pay to the REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA ("Agency"), a public body, corporate and politic, or order, an original principal amount of Four Million Three Hundred Seventeen Thousand Three Hundred Nineteen Dollars (\$4,317,319) as advanced by the Agency to the Developer pursuant to that certain Affordable Housing Loan Agreement dated on or about July 19, 2002, between the Developer and the Agency, as amended by that certain First Amendment to Affordable Housing Loan Agreement dated as of April 10, 2005, as further amended by that certain Second Amendment to Affordable Housing Loan Agreement dated as of March 21, 2006, as amended by that certain Third Amendment to Affordable Housing Loan Agreement dated as of September 11, 2007, and as further amended by that certain Fourth Amendment to Affordable Housing Loan Agreement dated as of _____, 2008, (collectively, the "Loan Agreement" or "Agreement"). Pursuant to the Loan Agreement, Developer has executed that certain promissory note in favor of the Agency in the principal amount of \$4,317,319 ("Second Amended and Restated Promissory Note"). Upon the Effective Date (as defined in the Fourth Amendment to the Loan Agreement), this Third Amended and Restated Promissory Note ("Note") supersedes the Second Amended and Restated Promissory Note in its entirety. Any capitalized term not otherwise defined herein, shall have the meaning ascribed to it in the Loan Agreement. The obligation of Developer to Agency hereunder is subject to the terms of the Agreement, this Note, and a Third Amended and Restated Deed of Trust dated on or about the date hereof and given by Developer to Agency for the purpose of securing this Note ("Deed of Trust"). Said documents are public records on file in the offices of Agency, and the provisions of said documents are incorporated herein by this reference as though set forth in full herein. The Developer shall pay interest at the rate, in the amount and at the time hereinafter provided.

1. This Note evidences the obligation of the Developer to the Agency for the repayment of an original principal amount of Four Million Three Hundred Seventeen Thousand Three Hundred Nineteen Dollars (\$4,317,319) of funds loaned to the Developer by Agency for the purpose of providing a portion of development and operational costs for the Project. Developer has also obtained a HUD Loan for the Project and a "Secondary Financing Rider" is attached hereto as Attachment No. 1 and incorporated herein by reference, in accordance with the terms of said HUD Loan. This Note is subject to the terms and conditions of the Secondary Financing Rider. In no event shall any amendments or modifications to the

Secondary Financing Rider be made without the express written consent of HUD.

2. This Note is payable at the principal office of Agency, City Hall, 1500 Warburton Avenue, Santa Clara, California 95050, or at such other place as the holder hereof may inform the Developer in writing, in lawful money of the United States.
3. This Note shall be secured by the Deed of Trust.
4. The unpaid principal balance of this Note and all accrued but unpaid interest shall be due and payable in full on the earlier of: (a) July 9, 2044; (b) the date the Property or any portion thereof or interest therein is sold, transferred, assigned or refinanced, without the prior written approval of the Agency, except as otherwise permitted in this Note; or (c) upon a Default by the Developer under the terms of this Note, the Deed of Trust, the Loan Agreement, the Agreement Containing Covenants, or any of the Senior Encumbrances, which is not cured within the respective time periods provided herein and therein, including, without limitation a default of Sections 4.5.3(b)(3) or 4.5.5 of the Loan Agreement.
5. The Maturity Date under this Note shall be extended if this Note matures, there are no "residual receipts" or "surplus cash" funds available for repayment of the Agency Loan and the HUD Loan has not been retired in full or HUD grants a deferment or forbearance that results in an extended maturity of the HUD Loan.
6. During the term of this Note, the Developer shall make payments of principal and interest as may be due under this Note as set forth below:
 - a. This Note shall begin accruing simple interest on the amounts disbursed under the Loan Agreement as follows: as to the \$3,027,319 disbursed in connection with the Original Promissory Note, interest shall accrue at the rate of four percent (4%) per annum commencing on July 9, 2002; as to the \$380,000 disbursed in connection with the Additional Promissory Note, interest shall accrue at the rate of four percent (4%) per annum commencing on May 1, 2005; as to the \$630,000 disbursed in connection with the Amended and Restated Promissory Note, interest shall accrue at the rate of four percent (4%) per annum commencing on the date of each disbursement of the Nine (9) Monthly Loan Disbursements; and as to the \$280,000 disbursed in connection with the Second Amended and Restated Promissory Note, interest shall accrue at the rate of four percent (4%) per annum commencing on the date of each disbursement of the four (4) Monthly Loan Disbursements.
 - b. No payments of principal or interest shall be due until July 9, 2010. Beginning July 9, 2010, Developer shall make monthly interest-only payments based on the total sum of the principal and the unpaid accrued interest as of July 9, 2010. Interest on this sum shall be calculated at the rate of four percent (4%) per annum. No payment of

loan principal shall be required prior July 9, 2015.

- c. Beginning on July 9, 2015, the Developer shall make monthly payments to the Agency each in the amount needed to fully amortize the sum of: (1) all unpaid interest accrued from July 9, 2010; plus (2) the original principal balance of this Note based on a loan term of 40 years (to July 9, 2055). Interest on this sum shall be calculated at the rate of four percent (4%) per annum. Any outstanding principal balance and interest shall be due and payable in full by July 9, 2044.
 - d. All payments to the Agency shall be applied first to accrued interest, and then to current interest, then to reduce the principal amount owed.
 - e. If the HUD Loan is prepaid in full, the Agency has the right, at the Agency's option without notice, to declare the whole principal sum or any balance with interest immediately due and payable.
 - f. Presentment, demand and notice of demand, nonpayment and protest of this Note shall be waived by Developer.
7. a. Prior to the repayment in full of the Agency Loan, the Developer shall not assign or attempt to assign the Loan Agreement or any right therein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property, the Project thereon, or any portion thereof or interest therein (referred to hereinafter as a "Transfer"), without the prior written approval of the Agency, except as otherwise permitted in this Note. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Agency may grant or deny such consent in its sole discretion and, if consent should be given, any such transfer shall be subject to this Section, and any such transferee shall assume all obligations hereunder and agree to be bound by all provisions contained herein.
- b. Any such proposed transferee shall have the qualifications and financial responsibility necessary and adequate as may be reasonably determined by the Agency, to fulfill the obligations undertaken in the Agreement and this Note by the Developer. Any such proposed transferee, by instrument in writing satisfactory to the Agency and in form recordable among the land records, for itself and its successors and assigns, and for the benefit of the Agency shall expressly assume all of the obligations of the Developer under the Agreement and agree to be subject to all conditions and restrictions applicable to the Developer in this Note. There shall be submitted to the Agency for review all instruments and other legal documents proposed to effect any such transfer; and if approved by the Agency its approval shall be indicated to the Developer in writing.

- c. In the absence of specific written agreement by the Agency, no unauthorized Transfer, or approval thereof by the Agency, shall be deemed to relieve the Developer or any other party from any obligations under the Agreement.
 - d. In the event of a Transfer prior to the time the Agency Loan is paid in full without the prior written consent of the Agency, Agency shall have the absolute right at its option, without prior demand or notice, to declare all sums evidenced hereby immediately due and payable.
 - e.
 - (i) As used herein, "Transfer" includes the sale, agreement to sell, transfer or conveyance of the Property, the Project, or any portion thereof or interest therein, whether voluntary, involuntary, by operation of law or otherwise, the execution of any installment land sale contract or similar instrument affecting all or a portion of the Property or Project, or the lease of all or substantially all of the Property or Project, except as provided in subparagraph e.(iii), below.
 - (ii) Except as provided in subparagraph e.(iii), below, "Transfer" shall also include the transfer, assignment, hypothecation or conveyance of legal or beneficial ownership of the Developer.
 - (iii) Notwithstanding paragraphs (i) and (ii) of this Section., Developer shall be permitted to make the following Transfers:
 - (1) Foreclosure of any Senior Encumbrance, or the conveyance of title to the Property and/or Project in connection with a foreclosure or a deed in lieu of foreclosure of any Senior Encumbrance;
 - (2) Subject to the prior written approval of Agency, which the Agency may grant or deny in its reasonable discretion, a conveyance of the Property and/or Project to a limited partnership or limited liability company in which Developer is a general partner or managing member, with control over day-to-day decisions and over the development and operation of the Property, or a sale back from such entity to the Developer; and
 - (3) The leasing for occupancy of all or any part of the Property and/or Project.
8. The Agency funds advanced or to be advanced hereunder are provided by Agency's Low and Moderate Income Housing Fund. Accordingly, Developer agrees for itself, its successors and

assigns, that the use of the property shall be subject to the restrictions on rent and occupancy set forth in the Loan Agreement, and in the Agreement Containing Covenants.

9. Subject to the provisions and limitations of this Section, the obligation to repay the Agency Loan is a nonrecourse obligation of the Developer. Developer shall not have any personal liability for repayment of the loan, except as provided in this Section. The sole recourse of Agency shall be the exercise of its rights against the Property and any related security for the Agency Loan. Provided, however, that the foregoing shall not (i) constitute a waiver of any obligation evidenced by this Note or the Deed of Trust; (ii) limit the right of the Agency to name Developer as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Developer; (iii) release or impair this Note or the Deed of Trust; (iv) prevent or in any way hinder Agency from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the Note or as prescribed by law or in equity in case of default; or (v) prevent or in any way hinder Agency from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note. Notwithstanding the first sentence of this paragraph, Agency may recover directly from Developer or from any other party:
 - a. Any damages, costs and expenses incurred by Agency as a result of fraud or any criminal act or acts of Developer or any partner, shareholder, member, officer, director or employee of Developer, or of any member or general or limited partner of Developer, or of any general or limited partner of such member or general or limited partner;
 - b. Any damages, costs and expenses incurred by Agency as a result of any misappropriation of funds provided for the construction of the Project, as described in the Agreement, rents and revenues from the operation of the Project, or proceeds of insurance policies or condemnation proceeds;
 - c. Any and all amounts owing by Developer pursuant to the indemnification regarding Hazardous Substances pursuant to the Agreement, and
 - d. All court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that Agency shall pay Developer's reasonable court costs and attorneys' fees if Developer is the prevailing party in any such enforcement or collection action).

- e. In the event of the occurrence of a default by Developer and expiration of the applicable grace period, Developer and its successors and assigns shall have personal liability hereunder but only if and to the extent Developer, its principals, shareholders, members, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property after the event of default and expiration of the applicable grace period, which rentals, other revenues, or other payments or proceeds were received and were not used for the payment of: (i) ordinary and reasonable operating expenses of the mortgaged Property; (ii) ordinary and reasonable capital improvements to the mortgaged Property; (iii) debt service (including but not limited to payments under the Senior Encumbrances); (iv) real estate taxes in respect of the mortgaged Property; and (v) and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Developer in connection with the operation of the mortgaged Property, which are then due and payable.
10. Developer waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waivable exemptions; and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. Developer hereby agrees to pay all costs and expenses, including reasonable attorneys' fees, which may be incurred by the holder hereof, in the enforcement of this Note, the Deed of Trust or any term or provision of either thereof.
11. Upon the failure of Developer to perform or observe any other term or provision of this Note, or upon the occurrence of any event of default under the terms of the Deed of Trust, the Loan Agreement, the Agreement Containing Covenants or any of the Senior Encumbrances, the holder may exercise its rights or remedies thereunder.
12. a. Subject to the provisions of this Section, failure or delay by Developer to perform any term or provision of this Note, the Deed of Trust, the Loan Agreement or the Agreement Containing Covenants constitutes a default under this Note.
- b. Agency shall give written notice of default to Developer, specifying the default complained of by the Agency. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- c. Any failures or delays by Agency in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Agency in asserting any of its rights and remedies shall not deprive Agency of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

- d. If a monetary event of default occurs under the terms of this Note or the Deed of Trust, prior to exercising any remedies hereunder or thereunder Agency shall give Developer written notice of such default. Developer shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Agency under this Note and/or the Deed of Trust. In no event shall Agency be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within seven (7) days after the notice of default is first given.
 - e. If a non-monetary event of default occurs under the terms of the Agreement, this Note, the Deed of Trust, Agreement Containing Covenants or any document implementing this Agreement, prior to exercising any remedies hereunder or thereunder, Agency shall give Developer notice of such default. If the default is reasonably capable of being cured within thirty (30) days, Developer shall have such period to effect a cure prior to exercise of remedies by the Agency under this Note, the Agreement and/or the Deed of Trust. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Developer (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Developer shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Agency. The Agency agrees to accept cures tendered by the Developer within the cure periods provided in this Agreement. In no event shall Agency be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the notice of default is first given.
- 13. If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid.
 - 14. The Deed of Trust securing this Note shall be subordinate and junior to the Senior Encumbrances.
 - 15. Developer shall have the right to prepay the obligation evidenced by this Note, or any part thereof, without penalty.
 - 16. This Note may be executed by each signee of Community Home Partners, LLC, on a separate signature page, and when the executed signature are combined with the balance of this Note, it shall constitute one single instrument.

[remainder of page left intentionally blank]

IN WITNESS WHEREOF Developer has executed this Note as of the day and year set forth above.

COMMUNITY HOME PARTNERS, LLC, a California limited liability company

By: **COMMUNITY HOUSING ASSISTANCE PARTNERS**, a California general partnership

By: _____
General Partner: Community Assistance Partners, Inc., Maxine Brookner, President

By: _____
General Partner: DFC Associates, a California corporation, David F. Coombs, President

By: _____
Bruce Bastl, Member

By: _____
Al Brayton, Member

By: _____
David W. Jefferson, Member

ATTACHMENT NO. 2

FORM OF THIRD AMENDED AND RESTATED DEED OF TRUST

[behind this page]

OFFICIAL BUSINESS

Document entitled to free
recording per Government
Code Section 6103 and 27383

Recording Requested By and
When Recorded Mail To:

THE REDEVELOPMENT AGENCY
OF THE CITY OF SANTA CLARA, CALIFORNIA
1500 Warburton Avenue
Santa Clara, California 95050
Attention: Executive Director

SPACE ABOVE THIS LINE FOR RECORDER'S USE

THIRD AMENDED AND RESTATED
DEED OF TRUST
With Assignment of Rents
Pacific Gardens Assisted Living Community
("Deed of Trust")

THIS DEED OF TRUST is made as of _____, 2008, by
COMMUNITY HOME PARTNERS, LLC, a California limited liability company ("Trustor"), in
favor of First American Title Company ("Trustee") and THE REDEVELOPMENT AGENCY OF
THE CITY OF SANTA CLARA, CALIFORNIA, a public body, corporate and politic
("Beneficiary").

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee,
its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH RIGHT OF
ENTRY AND POSSESSION the following property (the "Trust Estate"):

- a. All of that certain real property in the City of Santa Clara, County of Santa Clara,
State of California more particularly described in Exhibit "A" attached hereto and by
this reference made a part hereof (such real property is hereafter referred to as the
"Subject Property");
- b. All buildings, structures and other improvements now or in the future located or to be
constructed on the Subject Property (the "Improvements");
- c. All tenements, hereditaments, appurtenances, privileges, franchises and other rights

and interests now or in the future benefiting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights (the "Appurtenances"). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the "Real Property");

- d. Subject to the assignment to Beneficiary set forth in Paragraph 4 below, all rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the "Rents");
- e. All present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "UCC"), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property (the "Goods," and together with the Real Property, the "Property"); and
- f. All present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or

destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types of intangible personal property of any kind or nature, and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (the "Intangibles").

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estate described above in which a security interest may be created under the UCC (collectively, the "Personal Property"). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the rights and remedies of a "secured party" under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9313 and 9402(6) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following: (1) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein; (2) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained in that certain Affordable Housing Loan Agreement executed on July 9, 2002, as amended by that certain First Amendment to Affordable Housing Loan Agreement dated as of April 10, 2005, as amended by that certain Second Amendment to Affordable Housing Loan Agreement dated as of March 21, 2006, as amended by that certain Third Amendment to Affordable Housing Loan Agreement dated as of September 11, 2007, and as amended by that certain Fourth Amendment to Affordable Housing Loan Agreement dated as of _____, 2008 (collectively, the "Loan Agreement"); (3) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained in a Third Amended and Restated Promissory Note executed by Trustor ("Developer" therein) dated on or about the date hereof in the principal amount of \$4,317,319 (the "Note"); (4) payment of indebtedness of Trustor to the Beneficiary in an original principal sum of Four Million Three Hundred Seventeen Thousand Three Hundred Nineteen Dollars (\$4,317,319), evidenced by the Note; and (5) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained in an Agreement Containing Covenants recorded with the Santa Clara County Recorder's Office on April 29, 2003 as Document No. 16999993, as amended by that certain First Amendment to Agreement Containing Covenants

recorded with the Santa Clara County Recorder's Office on May 27, 2005 as Document No. 18391709, as amended by that certain Second Amendment to Agreement Containing Covenants recorded with the Santa Clara County Recorder's Office on April 13, 2006 as Document No. 18885196, and as amended by that certain Third Amendment to Agreement Containing Covenants recorded with the Santa Clara County Recorder's Office on _____ as Document No. _____ (collectively, the "Agreement Containing Covenants"). This Deed of Trust, the Loan Agreement, the Note, and the Agreement Containing Covenants (also referred to herein collectively as the "Secured Obligations") and all of their respective terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and any increases or additional advances evidenced by any note reciting that it is secured hereby. Any capitalized term not otherwise defined in this Deed of Trust shall have the meaning ascribed to such term in the Note or Loan Agreement, as applicable.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

1. That Trustor shall pay the Note at the time and in the manner provided therein, and perform the obligations of Developer as set forth in the Secured Obligations at the time and in the manner respectively provided therein.
2. That Trustor shall not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed.
3. That the Secured Obligations are incorporated in and made a part of this Deed of Trust. Upon default of any of the Secured Obligations, and after the giving of notice and the expiration of any applicable cure period as provided herein in Section 30, below, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.
4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt and obligations hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder or under the Secured Obligations after the giving of notice and the expiration of any applicable cure period as provided herein in Section 30, below, to collect such rents, profits and income for use in accordance with the provisions of the Secured Obligations.
5. That upon default hereunder or under the Secured Obligations, and after the giving of notice and the expiration of any applicable cure period as provided herein in Section 30, below, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom.

6. That Trustor will keep the Improvements now existing or hereafter erected on the Property insured against loss by fire and such other hazards, casualties, and contingencies as may reasonably be required in writing from time to time by the Beneficiary, and all such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies. In no event shall the amounts of coverage be less than 100 percent (100%) of the insurable value of the Property. Such policies shall be endorsed with standard mortgage clause with loss payable to the Beneficiary and certificates thereof together with copies of original policies shall be deposited with the Beneficiary.
7. To pay, at least 10 days before delinquency, any taxes and assessments affecting said Property; to pay, when due, all encumbrances, charges and liens, with interest, on said Property or any part thereof which appear to be prior or superior hereto; and to pay all costs, fees, and expenses of this Deed of Trust. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as Trustor is contesting the legality thereof in good faith and by appropriate proceedings, and Trustor has adequate funds to pay any liabilities contested pursuant to this Section 7.
8. To keep said property in good condition and repair, subject to ordinary wear and tear, casualty and condemnation, not to remove or demolish any buildings thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or Improvements to be made thereon (subject to Trustor's right to contest the validity or applicability of laws or regulations); not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law and/or covenants, conditions and/or restrictions affecting said property; not to permit or suffer any material alteration of or addition to the buildings or Improvements hereafter constructed in or upon said property without the consent of the Beneficiary.
9. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.
10. Should Trustor fail, after the giving of notice and the expiration of any applicable cure period as provided herein in Section 30, below, to make any payment or do any act as herein provided or as provided in the Secured Obligations, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Following default under any of the Secured Obligations, after the giving of notice and the expiration of any applicable

cure period as provided herein in Section 30, below, Beneficiary or Trustee being authorized to enter upon said property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; may pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, may pay necessary expenses, employ counsel, and pay his reasonable fees.

11. Beneficiary shall have the right to pay fire and other property insurance premiums when due should Trustor fail to make any required premium payments. All such payments made by the Beneficiary shall be added to the principal sum secured hereby.
12. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, under permission given under this Deed of Trust, with interest from date of expenditure, at the highest rate of interest permitted by law.
13. That the funds to be advanced hereunder are to be used in accordance with the Secured Obligations; and upon the failure of Trustor, after the giving of notice and the expiration of any applicable cure period as provided herein in Section 30, below, to keep and perform all the covenants, conditions, and agreements of the Secured Obligations, the principal sum and other charges provided for in the Note shall at the option of the Beneficiary of this Deed of Trust become due and payable, anything contained herein to the contrary notwithstanding.
14. Trustor further covenants that it will not voluntarily create, suffer, or permit to be created against the property subject to this Deed of Trust any lien or liens except as authorized by Beneficiary and further that it will keep and maintain the property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be obligated to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting, provided that, except as otherwise agreed by Beneficiary, Trustor shall, at Beneficiary's written request, within thirty (30) days after the filing of any claim or lien (but in any event, and without any requirement that Beneficiary must first provide a written request, prior to foreclosure) record in the Office of the Recorder of Santa Clara County, a surety bond in an amount one-and-one-half (1 ½) times the amount of such claim item to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary.
15. That any and all Improvements made or about to be made upon the premises covered by this Deed of Trust, and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful authority, and that the same will upon completion comply with all such

municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

16. Trustor herein agrees to pay to Beneficiary or to the authorized loan servicing representative of the Beneficiary a reasonable charge for providing a statement regarding the obligation secured by this Deed of Trust as provided by Section 2954, Article 2, Chapter 2 Title 14, Division 3, of the California Civil Code.

IT IS MUTUALLY AGREED THAT:

17. Should the property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary. After deducting therefrom all its expenses, including attorney's fees, the balance of the proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, shall be applied to the amount due under the Note secured hereby. No amount applied to the reduction of the principal shall relieve the Trustor from making payments as required by the Note.
18. Upon default by Trustor in making any payments provided for herein or upon default by Trustor in making any payment required in the Note secured hereby, or if Trustor shall fail to perform any covenant or agreement in the Secured Obligations, after the giving of notice and the expiration of any applicable cure period as provided herein in Section 30, below, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale, and of written notice of default and of election to cause the property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. As necessary, Beneficiary shall also deposit with Trustee this Deed of Trust, the Note or any other document secured hereby.
19. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine

at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. The Trustee shall apply the proceeds of sale to payment of: (a) the expenses of such sale, together with the reasonable expenses of this trust including therein reasonable Trustee's fees or attorney's fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale; (b) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (c) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate specified in the Note; (d) all other sums then secured hereby; and (e) the remainder, if any, to the person or persons legally entitled thereto.

20. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.
21. The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.
22. Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."
23. The trust created hereby is irrevocable by Trustor.
24. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term

"Beneficiary" shall include not only the original Beneficiary hereunder but also any future owner and holder including pledgees, of the Note secured hereby. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.

25. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.
26. Trustor agrees at any time and from time to time upon receipt of a written request from Beneficiary, to furnish to Beneficiary detailed statements in writing of income, rents, profits, and operating expenses of the premises, and the names of the occupants and tenants in possession, together with the expiration dates of their leases and full information regarding all rental and occupancy agreements, and the rents provided for by such leases and rental and occupancy agreements, and such other information regarding the premises and their use as may be requested by Beneficiary.
27. Trustor agrees that the loan secured by this Deed of Trust is made expressly for the purpose of facilitating the use of the Property as affordable housing as provided in the Loan Agreement.
28. Trustor agrees that, except as otherwise provided herein, upon sale or refinancing of the Property, the entire principal balance and all accrued interest of the debt secured by this Deed of Trust shall at the option of Beneficiary be immediately due and payable.
29. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the Secured Obligations described herein, the unsecured portion of such Secured Obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the Secured Obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the Secured Obligations.
30.
 - a. Failure or delay by Trustor to perform any term or provision respectively required to be performed under the Secured Obligations or this Deed of Trust constitutes a default under this Deed of Trust.
 - b. Beneficiary shall give written notice of default to Trustor, specifying the default complained of by the Beneficiary. Delay in giving such notice shall not constitute a

waiver of any default nor shall it change the time of default.

- c. Any failures or delays by Beneficiary in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.
 - d. If a monetary event of default occurs under the terms of the Note or this Deed of Trust, prior to exercising any remedies hereunder or thereunder Beneficiary shall give Trustor written notice of such default. Trustor shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Beneficiary under the Note and/or this Deed of Trust. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within seven (7) days after the notice of default is first given.
 - e. If a non-monetary event of default occurs under the terms of this Deed of Trust or any of the Secured Obligations, prior to exercising any remedies hereunder or thereunder, Beneficiary shall give Trustor notice of such default. If the default is reasonably capable of being cured within thirty (30) days, Trustor shall have such period to effect a cure prior to exercise of remedies by the Beneficiary under the Note and/or this Deed of Trust. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Trustor (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the notice of default is first given.
 - f. It is the parties intent that if a cure period is provided in any of the Secured Obligations, such cure period shall control and Developer shall not be given a second cure period by virtue of this provision.
31. Subject to the provisions and limitations of this Section 31, the obligation to repay the Agency Loan is a nonrecourse obligation of the Trustor. Trustor shall not have any personal liability for repayment of the Agency Loan, except as provided in this Section 31. The sole recourse of Beneficiary shall be the exercise of its rights against the Property and any related security for the Agency Loan. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by the Note or this Deed of Trust; (b) limit the right of

the Beneficiary to name Trustor as a party defendant in any action or suit for judicial foreclosure and sale under the Note and this Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Trustor; (c) release or impair the Note or this Deed of Trust; (d) prevent or in any way hinder Beneficiary from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the Note or as prescribed by law or in equity in case of default; or (e) prevent or in any way hinder Beneficiary from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Note. Notwithstanding the first sentence of this paragraph, Beneficiary may recover directly from Trustor or from any other party:

- a. Any damages, costs and expenses incurred by Beneficiary as a result of fraud or any criminal act or acts of Trustor or any partner, shareholder, officer, member, director or employee of Trustor, or of any member or general or limited partner of Trustor, or of any general or limited partner of such member or general or limited partner;
- b. Any damages, costs and expenses incurred by Beneficiary as a result of any misappropriation of funds provided for the construction of the Improvements, as described in the Loan Agreement, rents and revenues from the operation of the Improvements, or proceeds of insurance policies or condemnation proceeds;
- c. Any and all amounts owing by Trustor pursuant to the indemnification regarding Hazardous Substances pursuant to the Loan Agreement, and
- d. All court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that Beneficiary shall pay Trustor's reasonable court costs and attorneys' fees if Trustor is the prevailing party in any such enforcement or collection action).
- e. In the event of the occurrence of a default by Developer and expiration of the applicable grace period, Developer and its successors and assigns shall have personal liability hereunder but only if and to the extent Developer, its principals, shareholders, members, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property after the event of default and expiration of the applicable grace period, which rentals, other revenues, or other payments or proceeds were received and were not used for the payment of: (i) ordinary and reasonable operating expenses of the mortgaged Property; (ii) ordinary and reasonable capital improvements to the mortgaged Property; (iii) debt service (including but not limited to payments under the Senior

Encumbrances): (iv) real estate taxes in respect of the mortgaged Property; and (v) and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Developer in connection with the operation of the mortgaged Property, which are then due and payable.

31. This Deed of Trust is and shall be subject and subordinate to all Senior Encumbrances.
32. This Deed of Trust may be executed by each signee of Community Home Partners, LLC, on a separate signature page, and when the executed pages are combined with the balance of the Deed of Trust, it shall constitute on single document.

IN WITNESS WHEREOF Trustor has executed this Deed of Trust as of the day and year set forth above.

COMMUNITY HOME PARTNERS, LLC, a California limited liability company

By: **COMMUNITY HOUSING ASSISTANCE PARTNERS**, a California general partnership

By: _____
General Partner: Community Assistance Partners, Inc., Maxine Brookner, President

By: _____
General Partner: DFC Associates, a California corporation, David F. Coombs, President

By: _____
Bruce Bastl, Member

By: _____
Al Brayton, Member

By: _____
David W. Jefferson, Member

State of California

County of _____

On _____ before me, _____, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of _____

On _____ before me, _____, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of _____

On _____ before me, _____, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of _____

On _____ before me, _____, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of _____

On _____ before me, _____, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A
LEGAL DESCRIPTION

[behind this page]

Exhibit "A "

Real property in the City of Santa Clara, County of Santa Clara, State of California, described as follows:

PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP FILLED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON DECEMBER 10, 2002 IN BOOK 756 OF MAPS, PAGES 3 & 4.

APN: 220-18-037

ATTACHMENT NO. 3

HUD SECONDARY RIDER [behind this page]

Secondary Financing Rider

121

THIS RIDER is attached to and made a part of the foregoing note(s) (herein, the "Junior Note") and mortgage(s) or deed(s) of trust (herein, the "Junior Mortgage") between Community Home Partners, LLC _____, referred to herein as the "Mortgagor," and the Redevelopment Agency of the City of Santa Clara, referred to herein as the "Junior Lender" (Collectively, the "Junior Loan Documents"). The terms and conditions of the Rider supersede the terms of the Junior Loan Documents, and, should there be any conflict or inconsistency between this Rider and the Junior Loan Documents, the terms and conditions of this Rider shall prevail. By acceptance of delivery and recordation of the Junior Loan Documents, the Junior Lender agrees to the following provisions. By execution of the Junior Loan Documents, the Mortgagor agrees to the following provisions:

1. The Junior Loan Documents are specifically subordinate to that certain note and mortgage/deed of trust between the Mortgagor and Midland Loan Services, Inc. _____ (herein, the "Senior Mortgage") dated April 1, 2003 _____ and recorded April 29, 2003 _____ in the real property records of Santa Clara _____ County, California _____.
2. The Junior Note may not mature, and may not bear a maturity date, prior to the date on which the Senior Mortgage matures. The term of the Junior Mortgage may be extended if the Junior Note matures, there are no surplus cash funds available for repayment and the Senior Mortgage has not been retired in full or HUD grants a deferment of amortization or forbearance that results in an extended maturity of the Senior mortgage.
3. The Junior Mortgage may be assumed when a sale or transfer of the physical assets occurs under the following conditions:
 - a. Not more than 70 percent of the net proceeds of the sale or transfer is applied to the reduction of the loan.
 - b. For these instructions, net proceeds are the funds available to the original mortgagor after:
 - i. Correcting any monetary or covenant default on the first mortgage, and
 - ii. Making required contributions to any reserve funds and needed improvements to the property as evidenced by HUD's annual inspection reports.
4. If HUD approves a sale of the project pursuant to HUD guidelines for transfers of physical assets, then Junior Mortgagee will agree to such transfer of the ownership of the project.
5. The Junior Note and Junior Mortgage automatically terminate if HUD acquires title to the project by a deed in lieu of foreclosure.
6. All work performed with the proceeds of the Junior Mortgage must be cost certified and must conform with Davis-Bacon requirements.

7. The Junior Mortgage is subject to and subordinate to the Senior Mortgage, the HUD Regulatory Agreement between HUD and the Mortgagor and the Building Loan Agreement between the Mortgagor and the Senior Mortgagee.

8. Proceeds of the Junior Loan may only be used to cover allowable project costs or an anticipated operating shortfall.

9. Payment Only From Surplus Cash. Check the appropriate alternative below:

a. ☒ [For junior loans secured by a lien against the project] As long as the Secretary of Housing and Urban Development, or his/her successors or assigns, is the insurer or holder of the Senior Mortgage, any payments due from project income under the Junior Loan Documents, or any prepayments made, shall be payable only from surplus cash of the project, as that term is defined in the Regulatory Agreement dated April 1, 2003, between the Secretary and the Mortgagor, and subject to the availability of such surplus cash in accordance with the provision of said Regulatory Agreement. The restriction on payment imposed by this paragraph shall not excuse any default caused by the failure of the maker to pay the indebtedness evidenced by the Junior Note.

b. ☐ [For junior loans NOT secured by a lien against the project] As long as the Secretary of Housing and Urban Development, or his/her successors or assigns, is the insurer or holder of the Senior Mortgage, any payment due from project income under the Junior Loan Documents, or any prepayments made, shall be payable only from surplus cash of the project, as that term is defined in the Regulatory Agreement dated _____, 20 __, between the Secretary and Mortgagor, and subject to the availability of such surplus cash in accordance with the provisions of said Regulatory Agreement. The restrictions on payment imposed by this paragraph shall not excuse any default caused by the failure of the maker to pay the indebtedness evidenced by the Junior Note. Junior Lender has no claim and will not later assert any claim for payment against the mortgaged property, the mortgage proceeds, any reserve or deposit made with the Senior Mortgagee or another required by the Secretary in connection with the mortgage transaction, or against the rents or other income from the mortgaged property. The Mortgagor cannot issue a surplus cash not to the principals as evidence of an obligation for payment of the Junior Loan.

10. Mortgagor has obtained the prior written consent of the Senior Mortgagee to the existence of the Junior Loan.

11. To the extent that the Junior Note provides for payment of principal and interest, such principal and interest shall be due and payable on the maturity date of the Senior Mortgage, provided that if the Senior Mortgage is prepaid in full, the holder of the Junior Note, at its option and without notice, may declare the whole principal sum or any balance thereof, together with interest thereon, immediately due and payable. Interest due pursuant to the terms of the Junior Note that is not paid in accordance therewith shall not create any default in the terms of the Junior Note, but shall accrue and be payable in full at the date of maturity of the Senior Mortgage.

12. The Junior Note is non-negotiable and may not be sold, transferred, assigned, or pledged by the Junior Mortgagee except with the prior written approval of HUD.
13. The Junior Mortgagee certifies that the Junior Loan Documents represent a *bona fide* transaction and that it fully understands all of HUD's requirements for such secondary financing, and that no prepayment of principal or interest shall be accepted without evidence that the Federal Housing Commissioner has authorized such prepayment. If an unauthorized prepayment is accepted, the funds shall be held by the Junior Mortgagee in trust for the project.